IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 28190 of 1995

Between:

1.P.BHASKARA Ramacharyulu S/o Narayana Charyulu,

60 years, Archaka R/oVeeravaram, Kadiam

Mandal, East Godavari District.

2. P.Venkata Kondandaramacharyulu

S/o Sobhanadricharyulu, age 50 years, Archaka

R/o Veeravaram, Kadiam Mandal, East Godavari,

District.

3. P.Lakshmana Chary S/o Kodandaramacharyulu,

58 years, Archaka R/o Veeravaram.

4. P.Ramacharyulu S/o Tirumala Venkata Krishnacharyulu,

aged 54 years, Archaka R/o Veeravaram, Kadiam Mandal,

East GodavariDistrict.

..... PETITIONERS

AND

1. Revenue Divisional Officer, Rajahmundry, E.G.District.

2.Mandal Revenue Officer,Alamuru, East Godavari District.

3.Mandal Revenue Officer, Kadiam, E.G.District.

4 Matsa Venkata Lakshmi,w/o.Devullu,aged about 35 years

5. Ramalapudi Satyavathi,w/o.Raja Babu,aged about 30 years

6. Chellapareddi Varahalamma,w/o.Raja Babu,aged about 40 years

7.Uggina Kanthamma,w/o.Tatalu,aged about 35 years

Respondents 4 to 7 are Labourers and residents of Nagulapeta,

H/o.Madiki,Alamuru Mandal, East Godavari District.

(Respondents 4 to 7 are impleaded as per the Court orders in W.P.M.P.No.14648 of 2004 dated 12-08-2004).

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus or any appropriate writ or order declaring the proposed action of the respondents in taking possession of the lands in R.S.No. 57/2 measuring 0-82 cents, 0-81 ½ cents, 0-54 ½ cents and 0-54 ½ cents respectively situate at Madiki (v) Alamuru Mandal and also lands in R.S.No.25 and 26 measuring Ac. 1-70 cents, 1.70 cents, 1.13 cents and Ac.1.13 cents situate at Veeravaram (v) Kadiam mandal, East Godavari District to distribute the same to weaker sections for house sites as illegal, arbitrary high-handed, violative of principles of natural justice and Art. 300-A of Constitution of India, and for a consequential order to the respondents to drop all further proceedings in this regard.

Counsel for the Petitioner:MR.CH.DHANAMJAYA

Counsel for the Respondent No.1 to 3: GP FOR REVENUE

Counsel for the Respondents 4 to 7: Mr.N.Siva Reddy

The Court made the following :

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This Writ Petition is filed by the petitioners challenging the proposed action of the respondents in taking possession of the lands in R.S.No.57/2 measuring 0-82 cents, 0-81 ½ cents, 0-54 ½ cents and 0-54 ½ cents respectively situate at Madiki (v) Alamuru Mandal and also lands in R.S.No. 25 and 26 measuring Ac. 1-70 cents, 1.70 cents, 1.13 cents and Ac. 1.13 cents situate at Veeravaram (v) Kadiam Mandal, East Godavari District to distribute the same to weaker sections for house sites as illegal, arbitrary high-handed, violative under Art. 300-A of Constitution of India.

It is stated by the petitioners that they are Archakas of Sri Kodandaramaswamivari Devasthanam, Veeravaram and eking out their livelihood by doing Archakathvam to diety and doing cultivation of the lands belong to the said temple as stated above. The above said lands were given to their ancestors by way of compromise arrived at between the Trust Board and also their ancestors in the year 1956 as service Inams by virtue of the compromise arrived between them and the same was recorded before the Assistant Commissioner of Endowments. The petitioners have been in possession and enjoyment of the above said lands since more than 40 years by paying taxes and contribution and audit fee. The lands were given to their ancestors for meeting the expenses of the 'NITYA DHOPPADEEPA NAIVEDYAM'. It is further alleged by the petitioners that even prior to the compromise their ancestors were in possession of the said lands and the rights are hereditary. The petitioners are also meeting the expenses for Dhoopa Dheepa Naivedyam from out of the income derived from the above said lands. While the things stood thus the Government issued G.O. directing the respondents to take possession of the lands belonging to the temples by dispensing with the procedure laid down under the statute in order to give pattas to the weaker sections in an expeditious manner. It is further alleged by the petitioners that without following the provisions of A.P. Charitable and Hindu Religious Act, 1956, the respondents cannot take possession of the above said lands.

Per contra the respondent No.1 filed counter alleging that in the year 1995 the Government have taken up special crash programme for providing house sites to the weaker sections and issued order vide G.O.Ms.No. 456 Rev. (Endow.II) Department, dated 29-9-1995 directing to acquire suitable lands belong to Endowments and Charitable Institutions under Land Acquisition Act. It is submitted that an extent of Ac.13-59 cents of land situated in Veeravaram village of Kadiam Mandal and Ac.3-

27 cents in Madiki village of Alamuru Mandal belongs to Deity Sri Kodanda Ramaswamy Vari Temple Veeravaram. The entire land stands registered in the name of Deity Sri Kodanda Ramaswamivari Temple Veeravaram. The contentions of the petitioners are false and suppressive of facts as no Land Acquisition proposals were initiated for acquisition of the petitioner's Endowment Land by the time the Writ Petition is filed.

Heard the learned counsel for the petitioners and also learned Government Pleader for Revenue.

The petitioners are admittedly tenants of Sri Kodandaramaswamivari Devasthanam and they cannot claim to have better rights than what the Sri Kodandaramaswamivari Devasthanan has, and best, they being in possession of the land belonging to Sri Kondandaeramaswamivari Devasthanam as tenants and person interested in the land can claim their share of compensation, which may be awarded by the Land Acquisition Officer for acquisition thereof. This aspect of the matter was considered by a learned single Judge of this Court in **B. Jagannayakulu vs. District Collector**, wherein he held thus:

"A tenant cannot have more rights than the owner. When the question of acquisition of land comes, if the owner cannot defeat the provisions of Land Acquisition Act can a tenant defeat such provisions? Under Section 11 of the Tenancy Act change of ownership in lands which are under tenants is possible. So, by issuing a notification under Section 4 of the Land Acquisition Act, the State has expressed its intention to take the lands into their own ownership. Under the Land Acquisition Act, State can become the owner of any property provided the property is taken for a public purpose and after following the procedure laid down by the Land Acquisition Act. Change of ownership is not barred under the A.P. Tenancy Act, therefore, State can become owner of the lands which are owned by landlords whether they are temples or private individuals. Once the land is taken in the ownership of the State, the A.P. Tenancy Act, 1956 becomes inoperative by virtue of Section 18 of the same Act. Section 18 of the Tenancy Act lays down that, nothing in the Tenancy Act shall apply to the lands owned by the State Government or the Central Government. Acquisition, per se, is not barred under the Tenancy Act. Change of ownership, is also not barred under the Tenancy Act. There cannot be any bar to the State Government to take the lands into its possession under the provisions of Land Acquisition Act which are in the possession of tenants at a particular point of time."

The petitioners being tenant of the Sri Kodandaramaswami vari Devasthanan and persons interested in the land belonging to the Sri Kodandaramaswamivari Devasthanan by reason of their cultivation of the said land, can well seek their share of compensation that may be awarded by the Land Acquisition Officer in lieu of acquisition thereof, but they certainly cannot question the acquisition proceedings on mere technicalities.

It may be noticed that the lease in respect of the lands in question is subsisting between the petitioners and Sri Kodandaramaswamivari Devasthanan and according to which, the petitioners would not be evicted there from. But, such lease having no statutory force, would not come in the way of acquisition proceedings, which are initiated under the Land Acquisition Act, 1894, which is a special enactment, enacted for acquisition of land needed for public purposes. Apart from this, it may be noticed that the apex Court in **State of A.P. and Others vs. Nallamilli Rami Reddy and Others** had held that the tenancy laws would not be applicable in relation to lands belonging to a Charitable or an Endowment Institution. Therefore, the petitioners being the tenants, cannot seek to enforce the lease when the land, which is under their cultivation, and belonging to a Charitable Institution, namely, Sri Kodandaramaswamivari Devasthanan is sought to be acquired by the respondents, for a public purpose, namely providing house sites to weaker sections of the society.

For the foregoing reasons, the writ petition is devoid of any

merit, and the same is accordingly dismissed. No costs.

N.V.Ramana,J.

12th August, 2004.

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ASSISTANT REGISTRAR

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SECTION OFFICER

To

1. Revenue Divisional Officer, Rajahmundry, E.G.District.

2. Mandal Revenue Officer,Alamuru, East Godavari District.

3. Mandal Revenue Officer, Kadiam, E.G.District.

4. Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad.(OUT)

5. two CD copies.

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THE HON'BLE MR JUSTICE N.V. RAMANA

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12th AUGUST, 2004